

UNITED STATES DISTRICT COURT  
DISTRICT OF DELAWARE

<b>RICHARD PIOTROWSKI,</b>	:	<b>C.A. No. 06-631</b>
	:	
<b>Plaintiff,</b>	:	
	:	
<b>v.</b>	:	<b>TRIAL BY JURY OF TWELVE</b>
	:	<b>DEMANDED</b>
<b>MAO M. IAN, SUI MAI, INSURANCE CORP.</b>	:	
<b>OF HANNOVER, and ALLSTATE</b>	:	
<b>INSURANCE COMPANY,</b>	:	
	:	
<b>Defendants.</b>	:	

**DEFENDANT MAO M. IAN AND SUI MAI'S ANSWER TO AMENDED COMPLAINT**

1. Answering Defendants are without sufficient knowledge to affirm or deny the averments of this paragraph.
2. Residency is denied as a conclusion of law.
3. Residency is denied as a conclusion of law.
4. Answering Defendants are without sufficient knowledge to affirm or deny the averments of this paragraph.
5. Answering Defendants are without sufficient knowledge to affirm or deny the averments of this paragraph.
6. It is admitted a collision occurred between the vehicles.
7. Answering Defendants are without sufficient knowledge to affirm or deny the averments of this paragraph.
8. Answering Defendants are without sufficient knowledge to affirm or deny the averments of this paragraph.
9. Denied.
10. Denied.

- 11. Denied.
- 12. Denied.
- 13. Denied.
- 14. Denied.
- 15. Denied.

**COUNT I**  
**RICHARD PIOTROWSKI v. MAO M. IAN**

- 16. Answering defendant incorporates herein by reference its responses to paragraphs 1 through 15.
- 17. Denied.
- 18. Denied.

**COUNT II**  
**RICHARD PIOTROWSKI v. SUI MAI**

- 19. Answering defendant incorporates herein by reference its responses to paragraphs 1 through 18.
- 20. Denied.
- 21. Denied

**COUNT III**  
**RICHARD PIOTROWSKI v. INSURANCE CORPORATION OF HANNOVER**

- 22. Answering defendant incorporates herein by reference its responses to paragraphs 1 through 21.
- 23. Admitted.
- 24. No response required as this paragraph calls for a legal conclusion.
- 25. No response required as this paragraph calls for a legal conclusion.

**COUNT IV**  
**RICHARD PIOTROWSKI v. ALLSTATE INSURANCE COMPANY**

26. Answering defendant incorporates herein by reference its responses to paragraphs 1 through 25.

27. Admitted.

28. No response required as this paragraph calls for a legal conclusion.

29. No response required as this paragraph calls for a legal conclusion.

### **AFFIRMATIVE DEFENSES**

#### **FIRST AFFIRMATIVE DEFENSE**

30. The plaintiff's complaint fails to state a claim upon which relief may be granted.

#### **SECOND AFFIRMATIVE DEFENSE**

31. Medical expenses and lost wages are limited by 21 Del. C. §2118(h).

#### **THIRD AFFIRMATIVE DEFENSE**

32. The claims asserted by the plaintiff were proximately caused by an intervening and/or superseding cause.

#### **FOURTH AFFIRMATIVE DEFENSE**

33. The accident was caused by a sudden emergency not of the answering defendants' making.

#### **FIFTH AFFIRMATIVE DEFENSE**

34. The injuries alleged preexisted the incident alleged in plaintiffs' complaint or are otherwise not related to the alleged incident.

#### **SIXTH AFFIRMATIVE DEFENSE**

35. Answering defendants deny any liability whatsoever. If found liable, however, the answering defendants contend that the accident and any resulting injuries were proximately caused by the negligence of the plaintiff in that he:

- a. failed to maintain a proper lookout;

b. was otherwise negligent.

To the extent that the negligence of the plaintiff is greater than the negligence of the answering defendants, recovery is barred. Otherwise, any award in favor of the plaintiff must be reduced by his pro rata share of liability.

**WHEREFORE**, Answering Defendants demand judgment in their favor and dismissal of plaintiff's complaint with costs of this action assessed against the plaintiff.

**CROSS CLAIM AGAINST ALL CO-DEFENDANTS  
FOR CONTRIBUTION AND INDEMNIFICATION**

While the answering defendants deny any liability whatsoever, if found liable, the answering defendants are entitled to contribution from each co-defendant for any amount which the answering defendants may be required to pay to plaintiff in accordance with Title 10, Chapter 63 of the Delaware Code.

In the alternative, answering defendants seek full indemnification from each co-defendant.

**ANSWER TO ANY PAST, PRESENT OR FUTURE CROSS-CLAIM**

Denied.

**WHEREFORE**, Answering Defendants demands judgment in their favor and dismissal of plaintiff's complaint with costs of this action assessed against the plaintiff.

CHRISSINGER & BAUMBERGER

/s/David L. Baumberger

DAVID L. BAUMBERGER

Attorney I.D. No. 2420

Three Mill Road, Suite 301

Wilmington, DE 19806

(302) 777-0100

Attorney for Defendants Ian and Mai

DATED: September 24, 2007

**CERTIFICATE OF SERVICE**

I, **DAVID L. BAUMBERGER, ESQUIRE**, hereby certify that on this 24<sup>th</sup> day of September, 2007, I have had served electronically a true and correct copy of the attached ***DEFENDANT IAN AND MAI'S ANSWER TO AMENDED COMPLAINT*** to the following:

Nicholas J. Renzi, Esquire  
Stampone D'Angelo Renzi DiPiero  
500 Cottman Avenue  
Cheltenham, PA 19012

James P. Hall, Esquire  
Phillips, Goldman & Spence  
1200 N. Broom Street  
Wilmington, DE 19806

Michael A. Pedicone, Esquire  
109 W. 7<sup>th</sup> Street  
P.O. Box 1395  
Wilmington, DE 19899

**CHRISSINGER & BAUMBERGER**

/s/David L. Baumberger  
DAVID L. BAUMBERGER  
Attorney I.D. No. 2420  
Three Mill Road, Suite 301  
Wilmington, DE 19806  
(302)777-0100  
Attorney for Defendants Ian and Mai